IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6793 OF 2005

Deepika Subhash More ..Petitioner.

Vs.

State of Maharashtra & Ors. ..Respondents.

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Mr.R.K.Mendadkar with Ms.H.K.Mandlik for the Petitioner.

Mr.C.R.Sonawane, AGP for the State.

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CORAM : F.I.REBELLO &

DR.D.Y.CHANDRACHUD, JJ.

11th October, 2005.

P.C. :

1. Rule. Heard forthwith.

2. The Petitioner was issued a caste certificate by the Deputy Collector, Thane District. One of the documents relied upon was the father's caste certificate issued by the Executive Magistrate, Chalisgaon, District Jalgaon. That certificate was thereafter referred to the committee. The committee by its order dated 15th June, 2005 held that the Deputy Collector, Thane District is not the competent authority for issuing caste certificate and consequently held the same being invalid. The committee, however, observed that the applicant before it, the Petitioner herein, was at liberty to obtain a caste certificate from the competent authority in the manner prescribed. It is this order which is the subject matter of the present petition.

3. On behalf of the Petitioner learned counsel submits that the committee failed to exercise the jurisdiction vested in it and consequently, the order ought to be set aside and the matter be remanded back to the committee for consideration in accordance with law. Our attention is also invited

to the Government Circular dated 10th March, 2005 permitting the issuance of a caste certificate to a person ordinarily residing in the State of Maharashtra, if migrates from one district to another for the purpose of education and service and resides permanently at the place to which a person migrated can apply to the competent authority for grant of caste certificate. Learned AGP on the other hand draws our attention to the rules in force which contemplate that the certificate will be validated by the competent committee having jurisdiction.

4. Having heard the counsel, and the Government Resolution earlier adverted to dated 10th March, 2005, at the highest only permits that a caste certificate be issued by the competent authority in the event a person has migrated from one district of Maharashtra to another district and permanently resides in that district. That Government Resolution cannot override the provisions of Rule 4 of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules 2003. Those Rules make it clear

that merely because a person has migrated from one district to another district, would not confer jurisdiction on the committee exercising jurisdiction in that District to consider the caste validity. The Applicant will have to apply to the competent authority in the District where the father, grandfather resided on the date of notification by which the tribe was scheduled. Considering the above, though the first part of the order of the committee is without jurisdiction, in so far as the second part is concerned, the order is within jurisdiction. Considering the above, we direct the Petitioner, if so advised, to move the competent caste scrutiny committee at Nasik for verification of the caste claim. The Petitioner will appear before the committee on 25th October, 2005 at 11.00 a.m. The Committee thereafter within four months from that date to decide the caste validity of the Petitioner. In the meantime, Respondents 4 and 5 are directed not to discontinue the Petitioner from prosecuting the studies.

5. It is made clear that the Petitioner’s continuance in the college is subject to the

committee validating the Petitioner's caste claim and the Petitioner can claim no equity against interim order of this Court.

6. Rule made absolutely accordingly. There shall be no order as to costs.

(F.I.REBELLO, J.)

(DR.D.Y.CHANDRACHUD, J.)